

### **REMARKS**

Presently, claims 17-24 are pending in the application. Claims 21 and 22 were amended in this response. No new matter was introduced as a result of the amendments. Support for the amendments may be found, for example, in FIGs. 3 and 4 (ref. 5b, 5c). Entry of the amendments and favorable reconsideration is earnestly requested.

### **REJECTIONS OF THE CLAIMS UNDER 35 U.S.C. §112**

Claims 21 and 22 were rejected under the second paragraph of 35 U.S.C. §112 for allegedly failing to point out and distinctly claim the subject matter which applicant regards as the invention. In light of the amendments to claim 21 and 22, Applicant respectfully submits the rejections are overcome. Withdrawal of the rejection is earnestly requested.

### **REJECTION OF THE CLAIMS – 35 U.S.C. §102**

Claims 17 and 23 were rejected under 35 U.S.C. §102(b) as being anticipated by Bright (US Patent No. 3,705,660), Applicant respectfully traverses this rejection.

At the outset, the present claims are directed to a preform of a *plastic* container. "If the claim preamble, when read in the context of the entire claim, recites limitations of the claim, or, if the claim preamble is 'necessary to give life, meaning, and vitality' to the claim, then the claim preamble should be construed as if in the balance of the claim." *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165-66 (Fed. Cir. 1999). MPEP 2111.02. In contrast, Bright is directed to a molded receptacle using a hard thermosetting resin to simulate "marbles, alabaster and semi-precious minerals" (col. 2, lines 1-17; see claim 15: "thermosetting material having a specific gravity approximately that of onyx"). Furthermore, independent claim 17 recites that the top portion comprises "a cylindrical neck that includes a flange terminated in a thickened rim." No such features are apparent in Bright. For at least these reasons, Applicant submits the rejection is improper and should be withdrawn.

### REJECTIONS OF THE CLAIMS – 35 U.S.C. §103

Claims 18 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bright (US Patent No. 3,705,660) in view of Yoshikawa (US Patent No. 3,785,311) and further in view of Britton (US Patent No. 6,413,467). Applicant respectfully traverses this rejection.

Yoshikawa and Britton do not solve the deficiencies of Bright, discussed above. Yoshikawa explicitly discloses the formation of metallic container formed through a drawing and ironing process (see col. 2, lines 44-59). The Office Action fails to explain how this teaching is relevant to the present claims. And how this teaching pertains to the disclosure in Bright (which expressly relies on a thermosetting resin). Clearly, there is no evidence that would lead one skilled in the art to combine the reference in the manner suggested in the Office Action.

Britton discloses a "test-tube like body 2" made from injection blow-molded plastic material (col. 2, lines 16-32). Importantly, the blow-molding of Britton results in a generally cylindrical shape, having uniform walls throughout.(see FIG. 1 and FIG. 3; col. 2, lines 42-54). There is nothing in Britton that teaches a preform for a plastic container comprising a *conically-shaped* container, wherein the degree in which the inner wall flares continuously outward is greater than the degree in which the outer wall flares continuously outward, resulting in a wall thickness that gradually decreases starting from the bottom portion to the top portion, wherein the top portion comprises a cylindrical neck that includes a flange terminated in a thickened rim. There is also no reason why one skilled in the art would combine Britton with Bright or Yoshikawa in the manner suggested in the Office Action. Bright teaches the use of a hard thermo-setting resin, where the container (FIG. 3, ref. 11) is moldable with a handle and a rest (col. 2, lines 56-57; col. 3, lines 6-8). Applicant submits that such a configuration would not be achieved through conventional blow-molding as disclosed in the art or record. Additionally, the Office Action points to no specific knowledge in the art that would make such a configuration feasible. Also, as stated above, Yoshikawa deals with non-analogous art directed to metallic cans. For at least these reasons, applicant submits the rejection is improper and should be withdrawn.

Claims 20-22 and 24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bright (US Patent No. 3,705,660) in view of Britton (US Patent No. 6,413,467). Applicant respectfully traverses this rejection.

Applicant reiterates the deficiencies of Bright, discussed above in connection with claim 17. Claims 20-22 recite a configuration where a rim of the flange has an annular thickness whose height is between 1.1 to 2.0 times a flange thickness. As the Office Action has conceded, Bright does not disclose this configuration. In addition, Britton does not disclose this configuration either as the flange rim is the same thing as the flange itself (FIG. 1, ref. 7). While the Office Action argues that this feature is a design choice, Applicant points out that the disclosure in Britton actually teaches away from such a configuration. Specifically, the rim 7 forms part of a seating for a blow pin (col. 2, lines 28-30). Rim 7 cooperates with flanges 4 and 6 so that, during blow molding, "flange 4 will be forced down about its junction with the flange 6 and rim 7 so that it becomes generally cylindrical, being urged against the inside of the flange 6" (col. 2, lines 44-47). By expanding the rim, this would inhibit the expansion of the plastic through the blow mold cavity.

Additionally, as argued above in connection with claims 18 and 19, there is no evidence of record suggesting that the hard thermo-setting resin structure of Bright is remotely related to the blow-molding techniques disclosed in Britton.

In light of the present amendments and arguments provided above, Applicants respectfully submit the rejections are overcome and should be withdrawn. Applicants respectfully submit that the patent application is in condition for allowance and request an early Notice of Allowance. The Commissioner is authorized to charge and credit Deposit Account No. 50-1290 for any additional fees associated with the submission of this Response. Please reference docket number 341261-00004.

Respectfully submitted,

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